

Department of  
**CRIMINAL JUSTICE TRAINING**

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KENTUCKY JUSTICE AND PUBLIC SAFETY CABINET

2011 -12



*Leadership is a behavior, not a position*

COURT SECURITY  
OFFICER  
IN-SERVICE



John W. Bizzack, Ph.D.  
*Commissioner*





**The Leadership Institute Branch of the Department of Criminal Justice Training offers a Web-based service to address questions concerning legal issues in law enforcement. Questions can now be sent via e-mail to the Legal Training Section at**

**[docjt.legal@ky.gov](mailto:docjt.legal@ky.gov)**

Questions concerning changes in statutes, current case laws and general legal issues concerning law enforcement agencies and/or their officers acting in official capacity will be addressed by the Legal Training Section.

Questions concerning the Kentucky Law Enforcement Council policies and KLEFPF will be forwarded to the DOCJT General Counsel for consideration.

Questions received will be answered in approximately two or three business days.

Please include in the query your name, rank, agency and a daytime phone number in case the assigned attorney needs clarification on the issues to be addressed.



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### ***NOTE:***

General Information concerning the Department of Criminal Justice Training may be found at <http://docjt.ky.gov>. Agency publications may be found at <http://docjt.ky.gov/publications.asp>.

In addition, the Department of Criminal Justice Training has a new service on its web site to assist agencies that have questions concerning various legal matters. Questions concerning changes in statutes, current case laws, and general legal issues concerning law enforcement agencies and/or their officers can now be addressed to [docjt.legal@ky.gov](mailto:docjt.legal@ky.gov). The Legal Training Section staff will monitor this site, and questions received will be forwarded to a staff attorney for reply. Questions concerning the Kentucky Law Enforcement Council policies and those concerning KLEFPF will be forwarded to the DOCJT General Counsel for consideration. It is the goal that questions received be answered within two to three business days (Monday-Friday). Please include in the query your name, agency, and a day phone number or email address in case the assigned attorney needs clarification on the issues to be addressed.

## **OBJECTIVES**

1. Given a scenario, determine if a court security officer was justified in using physical force to protect himself or another, as presented in class
2. Given a scenario, determine if a court security officer was justified in using deadly physical force to protect himself or another, as presented in class
3. Given a scenario, determine if a court security officer was justified in using either physical force or deadly force to protect property, as presented in class
4. Given a scenario, determine if court security officer may use law enforcement authority outside of the courthouse setting, as presented in class
5. Given a scenario, identify a court security officer's authority and responsibilities when transporting prisoners for in-county and out of county transports, as presented in class
6. Given a scenario, identify proper procedures to be sued in handling of evidence, as presented in class
7. Given a scenario, determine if a violation of Interference with Judicial Administration statutes has been committed, as presented in class.
8. Given a scenario, determine if a violation of Obstruction of Public Administration statutes has been committed, as presented in class
9. Given a scenario, determine if a violation of Abuse of Public Office statutes has been committed, as presented in class
10. Given a scenario, determine if a violation of Escape and other Offenses Related to Custody statutes has been committed, as presented in class

## USE OF FORCE

### KRS 503 - GENERAL PRINCIPLES OF JUSTIFICATION

#### **503.010 Definitions for chapter**

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deadly physical force" means force which is used with the purpose of causing death or serious physical injury or which the defendant knows to create a substantial risk of causing death or serious physical injury.

(2) "Dwelling" means **a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night.**

(3) "Imminent" means impending danger, and, in the context of domestic violence and abuse as defined by KRS 403.720, belief that danger is imminent can be inferred from a past pattern of repeated serious abuse.

(4) "Physical force" means force used upon or directed toward the body of another person and includes confinement.

**(5) "Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.**

**(6) "Vehicle" means a conveyance of any kind, whether or not motorized, which is designed to transport people or property.**

#### **503.020 Justification; a defense**

In any prosecution for an offense, justification, as defined in this chapter, is a defense.

#### **503.030 Choice of evils**

(1) Unless inconsistent with the ensuing sections of this code defining justifiable use

of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable when the defendant believes it to be necessary to avoid an imminent public or private injury greater than the injury which is sought to be prevented by the statute defining the offense charged, except that no justification can exist under this section for an intentional homicide.

(2) When the defendant believes that conduct which would otherwise constitute an offense is necessary for the purpose described in subsection (1), but is wanton or reckless in having such belief, or when the defendant is wanton or reckless in bringing about a situation requiring the conduct described in subsection (1), the justification afforded by this section is unavailable in a prosecution for any offense for which wantonness or recklessness, as the case may be, suffices to establish culpability.

#### **503.040 Execution of public duty**

(1) Unless inconsistent with the ensuing sections of this code defining justifiable use of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable when it is required or authorized by a provision of law imposing a public duty or by a judicial decree.

(2) The justification afforded by subsection (1) applies when:

(a) The defendant believes his conduct to be required or authorized by the judgment or direction of a competent court or tribunal or in the lawful execution of legal process, notwithstanding lack of jurisdiction of the court or defect in the legal process; or

(b) The defendant believes his conduct to be required or authorized to assist a public officer in the performance of his duties, notwithstanding that the officer exceeded his legal authority.

**503.050 Use of physical force in self-protection; admissibility of evidence of prior acts of domestic violence and abuse**

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is necessary to protect himself against the use or imminent use of unlawful physical force by the other person.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that such force is necessary to protect himself against death, serious physical injury, kidnapping, or sexual intercourse compelled by force or threat, **felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055.**

(3) Any evidence presented by the defendant to establish the existence of a prior act or acts of domestic violence and abuse as defined in KRS 403.720 by the person against whom the defendant is charged with employing physical force shall be admissible under this section.

**(4) A person does not have a duty to retreat prior to the use of deadly physical force.**

**KRS 503.055**

**(1) A person is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or great bodily harm to another if:**

**(a) The person against whom the defensive force was used was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if that person had removed or was attempting to remove another against that person's will from**

**the dwelling, residence, or occupied vehicle; and**

**(b) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.**

**(2) The presumption set forth in subsection (1) does not apply if:**

**(a) The person against whom the defensive force is used has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person; or**

**(b) The person sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used; or**

**(c) The person who uses defensive force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or**

**(d) The person against whom the defensive force is used is a peace officer, as defined in KRS 446.010, who enters or attempts to enter a dwelling, residence, or vehicle in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person entering or attempting to enter was a peace officer.**

**(3) A person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or**

**great bodily harm to himself or herself or another or to prevent the commission of a felony involving the use of force.**

**(4) A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or violence.**

#### **503.060 Improper use of physical force in self-protection**

Notwithstanding the provisions of KRS 503.050, the use of physical force by a defendant upon another person is not justifiable when:

(1) The defendant is resisting an arrest by a peace officer, recognized to be acting under color of official authority and using no more force than reasonably necessary to effect the arrest, although the arrest is unlawful; or

(2) The defendant, with the intention of causing death or serious physical injury to the other person, provokes the use of physical force by such other person; or

(3) The defendant was the initial aggressor, except that his use of physical force upon the other person under this circumstance is justifiable when:

(a) His initial physical force was nondeadly and the force returned by the other is such that he believes himself to be in imminent danger of death or serious physical injury; or

(b) He withdraws from the encounter and effectively communicates to the other person his intent to do so and the latter nevertheless continues or threatens the use of unlawful physical force.

#### **503.070 Protection of another**

(1) The use of physical force by a defendant upon another person is justifiable when:

(a) The defendant believes that such force is necessary to protect a third person against the use or imminent use of unlawful physical force by the other person; and

(b) Under the circumstances as the defendant believes them to be, the person whom he seeks to protect would himself have been justified under KRS 503.050 and 503.060 in using such protection.

(2) The use of deadly physical force by a defendant upon another person is justifiable when:

(a) The defendant believes that such force is necessary to protect a third person against imminent death, serious physical injury, kidnapping or sexual intercourse compelled by force or threat, **or other felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055;** and

(b) Under the circumstances as they actually exist, the person whom he seeks to protect would himself have been justified under KRS 503.050 and 503.060 in using such protection.

**(3) A person does not have a duty to retreat if the person is in a place where he or she has a right to be.**

#### **503.080 Protection of property**

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent:

(a) The commission of criminal trespass, **or robbery, [or] burglary, or other felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055,** in a dwelling, building or upon real property in his possession or in the possession of another person for whose protection he acts; or

(b) Theft, criminal mischief, or any trespassory taking of tangible, movable property in his possession or in the possession of another person for whose protection he acts.

(2) The use of deadly physical force by a defendant upon another person is justifiable

under subsection (1) only when the defendant believes that the person against whom such force is used is:

(a) Attempting to dispossess him of his dwelling otherwise than under a claim of right to its possession; or

(b) Committing or attempting to commit a burglary, robbery, or other felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055, of such dwelling; or

(c) Committing or attempting to commit arson of a dwelling or other building in his possession.

(3) A person does not have a duty to retreat if the person is in a place where he or she has a right to be.

**KRS 503.085 Justification and criminal and civil immunity for use of permitted force -- Exceptions.**

(1) A person who uses force as permitted in KRS 503.055 and in KRS 503.050, 503.070, and 503.080 is justified in using such force and is immune from criminal prosecution and civil action for the use of such force, unless the person against whom the force was used is a peace officer, as defined in KRS 446.010, who was acting in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law, or the person using force knew or reasonably should have known that the person was a peace officer. As used in this subsection, the term "criminal prosecution" includes arresting, detaining in custody, and charging or prosecuting the defendant.

(2) A law enforcement agency may use standard procedures for investigating the use of force as described in subsection (1) of this section, but the agency may not arrest the person for using force unless it determines that there is probable cause that the force that was used was unlawful.

(3) The court shall award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as provided in subsection (1).

**503.090 Use of physical force in law enforcement**

(1) The use of physical force by a defendant upon another person is justifiable when the defendant, acting under official authority, is making or assisting in making an arrest, and he:

(a) Believes that such force is necessary to effect the arrest;

(b) Makes known the purpose of the arrest or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested; and

(c) Believes the arrest to be lawful.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when:

(a) The defendant, in effecting the arrest, is authorized to act as a peace officer; and

(b) The arrest is for a felony involving the use or threatened use of physical force likely to cause death or serious physical injury; and

(c) The defendant believes that the person to be arrested is likely to endanger human life unless apprehended without delay.

(3) The use of physical force, including deadly physical force, by a defendant upon another person is justifiable when the defendant is preventing the escape of an arrested person and when the force could justifiably have been used to effect the arrest under which the person is in custody, except that a guard or other person authorized to act as a peace officer is justified in using any force, including deadly force, which he



believes to be necessary to prevent the escape of a person from jail, prison, or other institution for the detention of persons charged with or convicted of a crime.

#### **503.100 Prevention of a suicide or crime**

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent such other person from:

(a) Committing suicide or inflicting serious physical injury upon himself; or

(b) Committing a crime involving or threatening serious physical injury to person, substantial damage to or loss of property, or any other violent conduct.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1)(b) only when the defendant believes that the person whom he seeks to prevent from committing a crime is likely to endanger human life.

(3) The limitations imposed on the justifiable use of force in self-protection by KRS 503.050 and 503.060, for the protection of others by KRS 503.070, for the protection of property by KRS 503.080, and for the effectuation of an arrest or the prevention of an escape by KRS 503.090 apply notwithstanding the criminality of the conduct against which such force is used.

#### **503.110 Use of force by person with responsibility for care, discipline, or safety of others**

(1) The use of physical force by a defendant upon another person is justifiable when the defendant is a parent, guardian, or other person entrusted with the care and supervision of a minor or an incompetent person or when the defendant is a teacher or other person entrusted with the care and supervision of a minor, for a special purpose, and:

(a) The defendant believes that the force used is necessary to promote the welfare of a minor or mentally disabled person or, if the defendant's responsibility for the minor or mentally disabled person is for a special purpose, to further that special purpose or maintain reasonable discipline in a school, class, or other group; and

(b) The force that is used is not designed to cause or known to create a substantial risk of causing death, serious physical injury, disfigurement, extreme pain, or extreme mental distress.

(2) The use of physical force by a defendant upon another person is justifiable when the defendant is a warden or other authorized official of a correctional institution, and:

(a) The defendant believes that the force used is necessary for the purpose of enforcing the lawful rules of the institution;

(b) The degree of force used is not forbidden by any statute governing the administration of the institution; and

(c) If deadly force is used, its use is otherwise justifiable under this code.

(3) The use of physical force by a defendant upon another person is justifiable when the defendant is a person responsible for the operation of or the maintenance of order in a vehicle or other carrier of passengers and the defendant believes that such force is necessary to prevent interference with its operation or to maintain order in the vehicle or other carrier, except that deadly physical force may be used only when the defendant believes it necessary to prevent death or serious physical injury.

(4) The use of physical force by a defendant upon another person is justifiable when the defendant is a doctor or other therapist or a person assisting him at his direction, and:

(a) The force is used for the purpose of administering a recognized form of treatment which the defendant believes to be adapted to promoting the physical or mental health of the patient; and

(b) The treatment is administered with the consent of the patient or, if the patient is a minor or a mentally disabled person, with the consent of the parent, guardian, or other person legally competent to consent in his behalf, or the treatment is administered in an emergency when the defendant believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

#### **503.120 Justification; general provisions**

(1) When the defendant believes that the use of force upon or toward the person of another is necessary for any of the purposes for which such belief would establish a justification under KRS 503.050 to 503.110 but the defendant is wanton or reckless in believing the use of any force, or the degree of force used, to be necessary or in acquiring or failing to acquire any knowledge or belief which is material to the justifiability of his use of force, the justification afforded by those sections is unavailable in a prosecution for an offense for which wantonness or recklessness, as the case may be, suffices to establish culpability.

(2) When the defendant is justified under KRS 503.050 to 503.110 in using force upon or toward the person of another, but he wantonly or recklessly injures or creates a risk of injury to innocent persons, the justification afforded by those sections is unavailable in a prosecution for an offense involving wantonness or recklessness toward innocent persons.

## **PRISONER TRANSPORT**

#### **441.510 Transporting to and from detention facility.**

(1) If an inmate is confined in a detention facility, he shall be transported as necessary in accordance with the following provisions:

(a) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty; and

(b) In all other cases, the sheriff of the county where the prisoner is incarcerated shall carry out this duty as provided in subsection (3) of this section.

(2) The transportation of any inmate housed in a county detention center whose court appearance is necessary in any other county shall be transported by the sheriff of the county where the trial or court proceedings are to be held.

(3) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with the exception that in the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.

(4) In each county where there is no jail, the fiscal court or the legislative body of a charter county government, as appropriate, shall adopt a transportation plan which establishes the party responsible for transporting prisoners as necessary:

(a) The fiscal court or the legislative body of a charter county government, as appropriate, may require the jailer to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(b) The fiscal court or the legislative body of a charter county government, as appropriate, may require the sheriff to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(c) The fiscal court or the legislative body of a charter county government, as appropriate, may adopt any reasonable transportation plan so long as the party responsible for transporting prisoners is specified.

(5) Upon the recommendation of the jailer, the fiscal court shall employ a female transportation officer for purposes of assisting the jailer during the transportation of female prisoners, when deemed necessary by the jailer.

(6) In any county where there is no jail and the jailer does not transport prisoners, the jailer shall serve as a bailiff to the Circuit and District Courts of the county as provided for in KRS 71.050.

(7) Nothing in this section shall prohibit the jailer from transporting the prisoners as he or she deems necessary.

**61.387 Equipment of conspicuously marked law enforcement vehicles used for transportation of prisoners.**

(1) All conspicuously marked motor vehicles used by the Department of Kentucky State Police, sheriffs' departments, county police, urban-county police, and city police for transporting prisoners, which are conspicuously marked as law enforcement vehicles, shall be equipped with a screen or other protective device between the area where prisoners are transported and the driver of the vehicle, and the area in which the prisoner is enclosed shall be equipped so that the doors and windows cannot be opened from the inside of the vehicle.

(2) Subsection (1) of this section shall not apply to vehicles used for investigative purposes nor to special purpose vehicles not normally used for the transportation of prisoners.

**186.067 Publicly owned vehicles, how marked -- Exceptions.**

(1) All publicly owned vehicles shall be properly identified by an insignia on one (1) door on each side of every such vehicle.

(2) Such insignia shall not be less than twelve (12) inches in width and not less than twenty-one (21) inches in length, of a design so chosen by the legislative body of the state, county, or city in the Commonwealth of Kentucky.

(3) The legislative body may designate a separate insignia for each division, department, agency, bureau or any other authority as may come under their

jurisdiction within the state, county or city within the Commonwealth of Kentucky.

(4) Publicly owned vehicle, as used in this section, means any vehicle paid for with public funds and used by an elected or appointed official or employee of the state, county or city within the Commonwealth of Kentucky.

(5) Nothing in this section shall be construed to abrogate the provisions of KRS 44.045 and 186.065.

(6) The legislative body of any county or city may exempt from the provisions of this section any vehicle used for investigatory purposes.

**EVIDENCE HANDLING AND PROCESSING**

**422.285 Person sentenced for capital crime may request DNA testing -- Court orders -- Cost -- Access to reports -- Preservation of evidence -- Dismissal -- Hearing when results favorable to petitioner.**

(1) At any time, a person who was convicted of and sentenced to death for a capital offense and who meets the requirements of this section may request the forensic deoxyribonucleic acid (DNA) testing and analysis of any evidence that is in the possession or control of the court or Commonwealth, that is related to the investigation or prosecution that resulted in the judgment of conviction and that may contain biological evidence.

(2) After notice to the prosecutor and an opportunity to respond, the court shall order DNA testing and analysis if the court finds that all of the following apply:

(a) A reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA testing and analysis;

(b) The evidence is still in existence and is in a condition that allows DNA testing and analysis to be conducted; and

(c) The evidence was not previously subjected to DNA testing and analysis or was not subjected to the testing and analysis that is now requested and may resolve an issue not previously resolved by the previous testing and analysis.

(3) After notice to the prosecutor and an opportunity to respond, the court may order DNA testing and analysis if the court finds that all of the following apply:

(a) A reasonable probability exists that either:

1. The petitioner's verdict or sentence would have been more favorable if the results of DNA testing and analysis had been available at the trial leading to the judgment of conviction; or

2. DNA testing and analysis will produce exculpatory evidence;

(b) The evidence is still in existence and is in a condition that allows DNA testing and analysis to be conducted; and

(c) The evidence was not previously subject to DNA testing and analysis or was not subjected to the testing and analysis that is now requested and that may resolve an issue not previously resolved by the previous testing and analysis.

(4) If the court orders testing and analysis pursuant to subsection (2) of this section, the court shall order the responsibility for payment, if necessary. If the court orders testing and analysis of this section pursuant to subsection (3) of this section, the court shall require the petitioner to pay the costs of testing and analysis, if required by KRS 17.176. If the court orders testing and analysis under subsection (2) or (3) of this section the court shall appoint counsel to those petitioners who qualify for appointment under KRS Chapter 31.

(5) If the prosecutor or defense counsel has previously subjected evidence to DNA testing and analysis, the court shall order the prosecutor or defense counsel to provide all

the parties and the court with access to the laboratory reports that were prepared in connection with the testing and analysis, including underlying data and laboratory notes. If the court orders DNA testing and analysis pursuant to this section, the court shall order the production of any laboratory reports that are prepared in connection with the testing and analysis and may order the production of any underlying data and laboratory notes.

(6) If a petition is filed pursuant to this section, the court shall order the state to preserve during the pendency of the proceeding all evidence in the state's possession or control that could be subjected to DNA testing and analysis. The state shall prepare an inventory of the evidence and shall submit a copy of the inventory to the defense and the court. If the evidence is intentionally destroyed after the court orders its preservation, the court may impose appropriate sanctions, including criminal contempt.

(7) The court may make any other orders that the court deems appropriate, including designating any of the following:

(a) The preservation of some of the sample for replicating the testing and analysis; and

(b) Elimination samples from third parties.

(8) If the results of the DNA testing and analysis are not favorable to the petitioner, the court shall dismiss the petition. The court may make further orders as it deems appropriate, including any of the following:

(a) Notifying the Department of Corrections and the Parole Board;

(b) Requesting that the petitioner's sample be added to the Department of Kentucky State Police database; and

(c) Providing notification to the victim or family of the victim.

(9) In a capital case in which the death penalty has been imposed, notwithstanding any other provision of law that would bar a hearing as untimely, if the results of the DNA testing and analysis are favorable to the

petitioner, the court shall order a hearing and make any further orders that are required pursuant to this section or the Kentucky Rules of Criminal Procedure.

**422.287 Motion for DNA testing of evidence -- Court order -- Results -- Maintaining results.**

(1) When a person is being tried for a capital offense and there is evidence in the case which may be subjected to deoxyribonucleic acid (DNA) testing and analysis, the Commonwealth or the defendant may move to have any item of evidence not previously subjected to DNA testing and analysis tested and analyzed.

(2) If the court is satisfied that the item of evidence has not been tested and analyzed, that DNA testing and analysis would yield evidence of probative value, and that the item of evidence has not previously been the subject of DNA testing and analysis or that new DNA testing and analysis would yield a more accurate result, the court shall order DNA testing and analysis of the evidence.

(3) The testing and analysis of the evidence shall be done by the Department of Kentucky State Police laboratory or at another laboratory selected by the Department of Kentucky State Police laboratory.

(4) DNA testing and analysis results shall be made available to both the Commonwealth and the defendant, and either the Commonwealth or the defendant may move that they be admitted at trial.

(5) If the defendant is convicted of any offense for which DNA test and analysis results are required to be maintained by law, the DNA test and analysis results obtained pursuant to this section shall be utilized for that purpose, whether or not the test and analysis results were introduced in the case.

## **STATUTES**

### **Interference with Judicial Administration KRS 524.010 Definitions**

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Judge" means, with reference to intimidating a participant in the legal process, any current justice or judge of the Court of Justice, a trial commissioner of the Court of Justice, and any person serving as a judge at a trial or judicial proceeding of or authorized by the Court of Justice. With reference to retaliating against a participant in the legal process, the term "judge" also includes a former justice or judge of the Court of Justice, a trial commissioner of the Court of Justice, and any person serving as a judge at a trial or judicial proceeding authorized by the Court of Justice. The term includes persons who have been elected or appointed, but have not yet taken office.

(2) "Juror" means a person who is or has been a member of any impaneled jury, including a grand jury, and includes any person who has been drawn or summoned to attend as a prospective juror.

(3) "Participant in the legal process" means any judge, prosecutor, attorney defending a criminal case, juror, or witness and includes members of the participant's immediate family.

(4) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative or other governmental agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or depositions in any such proceedings.

(5) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.

(6) "Physical evidence" means any article, object, document, record or other thing of physical substance.

(7) "Prosecutor" means, with reference to intimidating a participant in the legal process, a current Commonwealth's attorney, assistant Commonwealth's attorney, county attorney, assistant county attorney, attorney general, deputy attorney general, assistant attorney general, or special prosecutor appointed pursuant to law. With reference to retaliating against a participant in the legal process, the term "prosecutor" also includes a former Commonwealth's attorney, assistant Commonwealth's attorney, county attorney, assistant county attorney, attorney general, deputy attorney general, assistant attorney general, or special prosecutor appointed pursuant to law.

(8) "Threat" means any direct threat to kill or injure a person protected by this chapter or an immediate family member of such a person. Persons protected by this chapter include persons who have been elected or appointed but have not yet taken office.

(9) "Witness" means any person who may be called to testify in an official proceeding, has been called to testify in an official proceeding, is testifying in an official proceeding, or who has testified in an official proceeding.

#### **KRS 524.020 Bribing a witness**

(1) A person is guilty of bribing a witness when he offers, confers or agrees to confer any pecuniary benefit upon a witness or a person he believes may be called as a witness in any official proceeding with intent to:

- (a) Influence the testimony of that person; or
- (b) Induce that person to avoid legal process summoning him to testify; or
- (c) Induce that person to absent himself from an official proceeding to which he has been legally summoned.

(2) Bribing a witness is a Class D felony.

#### **KRS 524.030 Bribe receiving by a witness**

(1) A witness or a person believing he may be called as a witness in any official proceeding is guilty of bribe receiving by a witness when he solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that:

- (a) His testimony will thereby be influenced; or
  - (b) He will attempt to avoid legal process summoning him to testify; or
  - (c) He will attempt to absent himself from an official proceeding to which he has been legally summoned.
- (2) Bribe receiving by a witness is a Class D felony.

#### **KRS 524.040 Intimidating a participant in the legal process**

(1) A person is guilty of intimidating a participant in the legal process when, by use of physical force or a threat directed to a person he believes to be a participant in the legal process, he or she:

- (a) Influences, or attempts to influence, the testimony, vote, decision, or opinion of that person;
- (b) Induces, or attempts to induce, that person to avoid legal process summoning him or her to testify;
- (c) Induces, or attempts to induce, that person to absent himself or herself from an official proceeding to which he has been legally summoned;
- (d) Induces, or attempts to induce, that person to withhold a record, document, or other object from an official proceeding;
- (e) Induces, or attempts to induce, that person to alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding; or
- (f) Hinders, delays, or prevents the communication to a law enforcement officer or judge of information relating to the

possible commission of an offense or a violation of conditions of probation, parole or release pending judicial proceedings.

(2) For purposes of this section:

(a) An official proceeding need not be pending or about to be instituted at the time of the offense; and

(b) The testimony, record, document or other object need not be admissible in evidence or free of a claim of privilege.

(3) Intimidating a participant in the legal process is a Class D felony.

(4) In order for a person to be convicted of a violation of this section, the act against a participant in the legal process or the immediate family of a participant in the legal process shall be related to the performance of a duty or role played by the participant in the legal process.

#### **KRS 524.050 Tampering with a witness**

(1) A person is guilty of tampering with a witness when, knowing that a person is or may be called as a witness in an official proceeding, he:

(a) Induces or attempts to induce the witness to absent himself or otherwise avoid appearing or

testifying at the official proceeding with intent to influence the outcome thereby; or

(b) Knowingly makes any false statement or practices any fraud or deceit with intent to affect the

testimony of the witness.

(2) Tampering with a witness is a Class D felony.

#### **KRS 524.055 Retaliating against a participant in the legal process**

(1) A person is guilty of retaliating against a participant in the legal process when he or she engages or threatens to engage in conduct causing or intended to cause bodily injury or damage to the tangible property of a participant in the legal process or a person he or she believes may be called as a participant in the legal process in any official

proceeding or because the person has participated in a legal proceeding:

(a) Attending an official proceeding, or giving or producing any testimony, record, document, or other object produced at that proceeding;

(b) Giving information to a law enforcement officer relating to the possible commission of an offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

(c) Vote, decision, or opinion; or

(d) Performance of his or her duty.

(2) Retaliating against a participant in the legal process is a Class D felony.

(3) In order for a person to be convicted of a violation of this section, the act against a participant in the legal process or the immediate family of a participant in the legal process shall be related to the performance of a duty or role played by the participant in the legal process.

#### **KRS 524.060 Bribing a juror**

(1) A person is guilty of bribing a juror when he offers, confers or agrees to confer any pecuniary benefit upon a juror with intent to influence the juror's vote, opinion, decision or other action as a

juror.

(2) Bribing a juror is a Class D felony.

#### **KRS 524.070 Bribe receiving by a juror**

(1) A person is guilty of bribe receiving by a juror when he solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that his vote, opinion, decision or other action as a juror will thereby be influenced.

(2) Bribe receiving by a juror is a Class D felony.

#### **KRS 524.090 Jury tampering**

(1) A person is guilty of jury tampering when, with intent to influence a juror's vote, opinion, decision or other action in a case, he communicates or attempts to communicate,

directly or indirectly, with a juror other than as a part of the proceedings in the trial of the case.

(2) Jury tampering is a Class D felony.

**KRS 524.100 Tampering with physical evidence**

(1) A person is guilty of tampering with physical evidence when, believing that an official proceeding is pending or may be instituted, he:

(a) Destroys, mutilates, conceals, removes or alters physical evidence which he believes is about to be produced or used in the official proceeding with intent to impair its verity or availability in the official proceeding; or

(b) Fabricates any physical evidence with intent that it be introduced in the official proceeding or offers any physical evidence, knowing it to be fabricated or altered.

(2) Tampering with physical evidence is a Class D felony.

**KRS 524.110 Simulating legal process**

(1) A person is guilty of simulating legal process when he delivers or causes to be delivered to another a request for the payment of money on behalf of a creditor knowing that in form and substance it simulates any legal process issued by any court of this state.

(2) Simulating legal process is a Class B misdemeanor.

**KRS 524.130 Unlawful practice of law**

(1) Except as provided in KRS 341.470 and subsection (2) of this section, a person is guilty of unlawful practice of law when, without a license issued by the Supreme Court, he engages in the practice of law, as defined by rule of the Supreme Court.

(2) A licensed nonresident attorney in good standing, although not licensed in Kentucky, is not guilty of unlawful practice if, in accordance with rules adopted by the Supreme Court, he practices law under specific authorization of a court.

(3) Unlawful practice of law is a Class B misdemeanor.

**KRS 524.140 Disposal of evidence that may be subject to DNA testing – Motion to destroy – Liability for destruction – Penalty – Retention of biological material**

(1) As used in this section:

(a) "Defendant" means a person charged with a:

1. Capital offense, Class A felony, Class B felony, or Class C felony; or

2. Class D felony under KRS Chapter 510; and

(b) "Following trial" means after:

1. The first appeal authorized by the Constitution of Kentucky in a criminal case has been decided; or

2. The time for the first appeal authorized by the Constitution of Kentucky in a criminal case has lapsed without an appeal having been filed.

(2) No item of evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant shall be disposed of prior to trial of a criminal defendant unless:

(a) The prosecution has determined that the defendant will not be tried for the criminal offense;

(b) The prosecution has made a motion before the court in which the case would have been tried to destroy the evidence; and

(c) The court has, following an adversarial proceeding in which the prosecution and the defendant were heard, authorized the destruction of the evidence by court order.

(3) No item of evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order to confirm the



guilt or innocence of a criminal defendant shall be disposed of following the trial unless:

(a) The evidence, together with DNA evidence testing and analysis results, has been presented at the trial, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial;

(b) The evidence was not introduced at the trial, or if introduced at the trial was not the subject of DNA testing and analysis, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial, and the trial court has ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant;

(c) The trial resulted in the defendant being found not guilty or the charges were dismissed after jeopardy attached, whether or not the evidence was introduced at the trial or was subject to DNA testing and analysis or not, and the trial court ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant; or

(d) The trial resulted in the dismissal of charges against the defendant, and the defendant may be subject to retrial, in which event the evidence shall be retained until after the retrial, which shall be considered a new trial for the purposes of this section.

(4) The burden of proof for a motion to destroy evidence that may be subject to DNA testing and analysis shall be upon the party making the motion, and the court may permit the destruction of the evidence under this section upon good cause shown favoring its destruction.

(5) It is recognized by the General Assembly that the DNA evidence laboratory testing and analysis procedure consumes and destroys a portion of the evidence or may destroy all of the evidence if the sample is small. The consuming and destruction of evidence during the laboratory analysis process shall not result in liability for its consumption or

destruction if the following conditions are met:

(a) The Kentucky State Police laboratory uses a method of testing and analysis which preserves as much of the biological material or other evidence tested and analyzed as is reasonably possible; or

(b) If the Kentucky State Police laboratory knows or reasonably believes that the entire sample of evidence to be tested and analyzed that the laboratory, prior to the testing or analysis of the evidence, notifies in writing the court which ordered the testing and analysis and counsel for all parties:

1. That the entire sample of evidence may be destroyed by the testing and analysis;

2. The possibility that another laboratory may be able to perform the testing and analysis in a less destructive manner with at least equal results;

3. The name of the laboratory capable of performing the testing and analysis, the costs of testing and analysis, the advantages of sending the material to that other laboratory, and

the amount of biological material or other evidence which might be saved by alternative testing and analysis; and

4. The Kentucky State Police laboratory follows the directive of the court with regard to the testing and analysis; or

(c) If the Kentucky State Police laboratory knows or reasonably believes that so much of the biological material or evidence may be consumed or destroyed in the testing and analysis that an insufficient sample will remain for independent testing and analysis that the laboratory follows the procedure specified in paragraph (b) of this subsection.

(6) Destruction of evidence in violation of this section shall be a violation of KRS 524.100.

(7) Subject to KRS 17.172(6), the appropriate governmental entity shall retain any biological material secured in connection with a criminal case for the period of time that any person remains

incarcerated in connection with that case. The governmental entity shall have the discretion to determine how the evidence is retained pursuant to this section, provided that the evidence is retained in a condition suitable for DNA testing and analysis

### **Obstruction of Public Administration statutes**

#### **KRS 519.010 Definitions**

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Governmental function" means any activity which a public servant is legally authorized to undertake on behalf of the governmental unit which he serves;

(2) "Public record" includes all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, magnetic or electronic images, optical images or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, received or retained by a public agency. "Public record" shall not include any records owned by a private person or corporation that are not related to functions, activities, programs, or operations funded by state or local authority;

(3) "Public servant" means:

(a) Any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state;

(b) Any person exercising the functions of any such public officer or employee;

(c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

(d) Any person elected, appointed or designated to become a public servant although not yet occupying that position;

(4) As used in this chapter, "benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

#### **KRS 519.020 Obstructing governmental operations**

(1) A person is guilty of obstructing governmental operations when he intentionally obstructs, impairs or hinders the performance of a governmental function by using or threatening to use violence, force or physical interference.

(2) This section shall not apply to:

(a) Any means of avoiding compliance with the law without affirmative interference with governmental functions; or

(b) The obstruction, impairment or hindrance of unlawful action by a public servant; or

(c) The obstruction, impairment or hindrance of an arrest.

(3) Obstructing governmental operations is a Class A misdemeanor.

#### **KRS 519.050 Impersonating a public servant**

(1) A person is guilty of impersonating a public servant, other than a peace officer, if he pretends to

be a public servant, other than a peace officer, or to represent a public agency, other than a law enforcement agency, or act with the authority or approval of a public agency, other than a law enforcement agency, with intent to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his prejudice.

(2) Impersonating a public servant, other than a peace officer, is a Class A misdemeanor.

#### **KRS 519.055 Impersonating a peace officer**

(1) A person is guilty of impersonating a peace officer if he pretends to be a peace officer, or to represent a law enforcement agency or act with the authority or approval of law enforcement agency, with intent to induce another to submit to the pretended official authority or otherwise to act in reliance upon the pretense to his prejudice.

(2) Impersonating a peace officer is a Class D felony.

(3) As used in this section, the phrase "peace officer" means a peace officer as defined in KRS 446.010.

#### **KRS 519.060 Tampering with public records**

(1) A person is guilty of tampering with public records when:

(a) He knowingly makes a false entry in or falsely alters any public record; or

(b) Knowing he lacks the authority to do so, he intentionally destroys, mutilates, conceals, removes or otherwise impairs the availability of any public records; or

(c) Knowing he lacks the authority to retain it, he intentionally refuses to deliver up a public record in his possession upon proper request of a public servant lawfully entitled to receive such record for examination or other purposes.

(2) Tampering with public records is a Class D felony.

#### **KRS 519.070 Tampering with a prisoner monitoring device**

(1) A person is guilty of tampering with a prisoner monitoring device when he or she intentionally alters, disables, deactivates, tampers with, removes, damages, or destroys any device used to facilitate electronic monitoring or supervision of a person who is on probation or parole, or has been ordered to wear a device as a condition of pretrial release. (2) Tampering with a prisoner monitoring device is a Class D felony.

#### **Abuse of Public Office**

##### **KRS 522.010 Definitions**

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Public servant" means:

(a) Any public officer or employee of the state or of any political subdivision thereof or

of any governmental instrumentality within the state; or

(b) Any person exercising the functions of any such public officer or employee; or

(c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

(d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

(2) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

#### **KRS 522.020 Official misconduct in the first degree**

(1) A public servant is guilty of official misconduct in the first degree when, with intent to obtain or confer a benefit or to injure another person or to deprive another person of a benefit, he knowingly:

(a) Commits an act relating to his office which constitutes an unauthorized exercise of his official functions; or

(b) Refrains from performing a duty imposed upon him by law or clearly inherent in the nature of his office; or

(c) Violates any statute or lawfully adopted rule or regulation relating to his office.

(2) Official misconduct in the first degree is a Class A misdemeanor.

#### **KRS 522.030 Official misconduct in the second degree**

(1) A public servant is guilty of official misconduct in the second degree when he knowingly:

(a) Commits an act relating to his office which constitutes an unauthorized exercise of his official functions or

(b) Refrains from performing a duty imposed upon him by law or clearly inherent in the nature of his office; or

(c) Violates any statute or lawfully adopted rule or regulation relating to his office.

(2) Official misconduct in the second degree is a Class B misdemeanor.

**KRS 522.040 Misuse of confidential information**

(1) A public servant is guilty of misuse of confidential information when, in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information to which he has access in his official capacity and which has not been made public, he:

- (a) Accepts or agrees to accept a pecuniary interest in any property, transaction or enterprise which may be affected by such information or official action; or
- (b) Speculates or wagers on the basis of such information or official action; or
- (c) Aids another to do any of the foregoing.

(2) Misuse of confidential information is a Class D felony.

**Escape and other Offenses Related to Custody**

**KRS 520.010 Definitions**

The following definitions apply in this chapter, unless the context otherwise requires:

- (1) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order;
- (2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail;
- (3) "Dangerous contraband" means contraband which is capable of use to endanger the safety or security of a detention facility or persons therein, including, but not limited to, dangerous instruments as defined

in KRS 500.080, any controlled substances, any quantity of an alcoholic beverage, and any quantity of marijuana, and saws, files, and similar metal cutting instruments;

(4) "Detention facility" means any building and its premises used for the confinement of a person:

- (a) Charged with or convicted of an offense;
- (b) Alleged or found to be delinquent;
- (c) Held for extradition or as a material witness; or
- (d) Otherwise confined pursuant to an order of court for law enforcement purposes;

(5) "Escape" means departure from custody or the detention facility in which a person is held or detained when the departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period; and

(6) As used in this section and KRS 520.015, "penitentiary" includes any facility operated by the Department of Corrections and the confines of any work detail or other detail, whether under guard or not, under the custody and control of the Department of Corrections.

**KRS 520.015 Attempting to escape from penitentiary**

(1) A person is guilty of attempting to escape from the penitentiary when he:

- (a) Conceals himself within the walls of the penitentiary; or
- (b) Attempts to scale the enclosure surrounding the penitentiary; or
- (c) Flees from whatever bounds he may be assigned, whether under guard or as a trusty; or
- (d) Escapes from a locked cell, dormitory, hospital or other lockup in the penitentiary; or
- (e) Escapes from one part of the penitentiary to another; or
- (f) Does any other act in furtherance of an escape from the penitentiary; or

(g) Does any act or omission constituting criminal attempt under KRS 506.010.

(2) Attempting to escape from the penitentiary is a Class D felony.

(3) No penalty provision of KRS 506.010 shall apply to an offense committed under this section.

**KRS 520.020 Escape in the first degree**

(1) A person is guilty of escape in the first degree when he escapes from custody or a detention facility by the use of force or threat of force against another person.

(2) Escape in the first degree is a Class C felony.

**KRS 520.030 Escape in the second degree**

(1) A person is guilty of escape in the second degree when he escapes from a detention facility or, being charged with or convicted of a felony, he escapes from custody.

(2) Escape in the second degree is a Class D felony.

**KRS 520.040 Escape in the third degree**

(1) A person is guilty of escape in the third degree when he escapes from custody.

(2) Escape in the third degree is a Class B misdemeanor.

**KRS 520.050 Promoting contraband in the first degree**

(1) A person is guilty of promoting contraband in the first degree when:

(a) He knowingly introduces dangerous contraband into a detention facility or a penitentiary; or

(b) Being a person confined in a detention facility or a penitentiary, he knowingly makes, obtains or possesses dangerous contraband.

(2) Promoting contraband in the first degree is a Class D felony.

**KRS 520.060 Promoting contraband in the second degree**

(1) A person is guilty of promoting contraband in the second degree when:

(a) He knowingly introduces contraband into a detention facility or a penitentiary; or

(b) Being a person confined in a detention facility or a penitentiary, he knowingly makes, obtains or possesses contraband.

(2) Promoting contraband in the second degree is a Class A misdemeanor.

**KRS 520.070 Bail jumping in the first degree**

(1) A person is guilty of bail jumping in the first degree when, having been released from custody by court order, with or without bail, upon condition that

(2) he will subsequently appear at a specified time and place in connection with a charge of having committed a felony, he intentionally fails to appear at that time and place.

(3) In any prosecution for bail jumping, the defendant may prove in exculpation that his failure to appear was unavoidable and due to circumstances beyond his control.

(4) Bail jumping in the first degree is a Class D felony.

**KRS 520.080 Bail jumping in the second degree**

(1) A person is guilty of bail jumping in the second degree when, having been released from custody by court order, with or without bail, upon condition that he will subsequently appear at a specified time and place in connection with a charge of having committed a misdemeanor, he intentionally fails to appear at that time and place.

(2) In any prosecution for bail jumping, the defendant may prove in exculpation that his failure to appear was unavoidable and due to circumstances beyond his control.

(3) Bail jumping in the second degree is a Class A misdemeanor.

**KRS 520.090 Resisting arrest**

(1) A person is guilty of resisting arrest when he intentionally prevents or attempts to prevent a peace officer, recognized to be acting under color of his official authority,

from effecting an arrest of the actor or another by:

(a) Using or threatening to use physical force or violence against the peace officer or another; or

(b) Using any other means creating a substantial risk of causing physical injury to the peace officer or another.

(2) Resisting arrest is a Class A misdemeanor.

**KRS 520.095 Fleeing or evading police in the first degree**

(1) A person is guilty of fleeing or evading police in the first degree when, while operating a motor vehicle with intent to elude or flee, the person knowingly or wantonly disobeys a direction to stop his or her motor vehicle, given by a person recognized to be a police officer, and at least one (1) of the following conditions exists:

(a) The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720;

(b) The person is driving under the influence of alcohol or any other substance or combination of substances in violation of KRS 189A.010;

(c) The person is driving while his or her driver's license is suspended for violating KRS

(d) By fleeing or eluding, the person is the cause, or creates substantial risk, of serious physical injury or death to any person or property; or

(2) When, as a pedestrian, and with intent to elude or flee, the person knowingly or wantonly disobeys an order to stop, given by a person recognized to be a peace officer, and at least one (1) of the following conditions exists:

(a) The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720; or

(b) By fleeing or eluding, the person is the cause of, or creates a substantial risk of

serious physical injury or death to any person or property.

(3) Fleeing or evading police in the first degree is a Class D felony.

**KRS 520.100 Fleeing or evading police in the second degree**

(1) A person is guilty of fleeing or evading police in the second degree when:

(a) As a pedestrian, and with intent to elude or flee, the person knowingly or wantonly disobeys a direction to stop, given by a person recognized to be a peace officer who has an articulable reasonable suspicion that a crime has been committed by the person fleeing, and in fleeing or eluding the person is the cause of, or creates a substantial risk of, physical injury to any person; or

(b) While operating a motor vehicle with intent to elude or flee, the person knowingly or wantonly disobeys a recognized direction to stop his vehicle, given by a person recognized to be a peace officer.

(2) No offense is committed under this section when the conduct involved constitutes a failure to comply with a directive of a traffic control officer.

(3) Fleeing or evading police in the second degree is a Class A misdemeanor.

**KRS 520.110 Definitions for KRS 520.120 and 520.130**

(1) For the purposes of KRS 520.120 and 520.130, a person renders assistance to another when he:

(a) Harbors or conceals such person; or

(b) Warns such person of impending discovery or apprehension, except that this does not apply to a warning given in connection with an effort to bring another into compliance with law; or

(c) Provides such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension, or

(d) Prevents or obstructs, by means of force, deception or intimidation, anyone from

performing an act that might aid in the discovery or apprehension of such person; or  
(e) Volunteers false information to a law enforcement officer; or

(f) Suppresses by an act of concealment, alteration or destruction any physical evidence that might aid in the discovery or apprehension of such person.

(2) In any prosecution for hindering prosecution or apprehension it is a defense that the accused is the spouse, parent, child, brother, sister, grandparent or grandchild of the person whose discovery or apprehension he sought to prevent.

#### **KRS 520.120 Hindering prosecution or apprehension in the first degree**

(1) A person is guilty of hindering prosecution or apprehension in the first degree when, with the intent to hinder the apprehension, prosecution, conviction or punishment of another whom he knows is being sought in connection with the commission of a capital offense or Class A felony, he renders assistance to such person.

(2) Hindering prosecution or apprehension in the first degree is a Class D felony.

#### **KRS 520.130 Hindering prosecution or apprehension in the second degree**

(1) A person is guilty of hindering prosecution or apprehension in the second degree when, with the intent to hinder the apprehension, prosecution, conviction or punishment of another who is being sought in connection with the commission of a criminal offense, he renders assistance to such person.

(2) Hindering prosecution or apprehension in the second degree is a Class A misdemeanor.

### **MISCELLANEOUS OFFENSES**

#### **508.025 Assault in the third degree.**

(1) A person is guilty of assault in the third degree when the actor:

(a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:

1. A state, county, city, or federal peace officer;

2. An employee of a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;

3. An employee of the Department for Community Based Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job-related duties;

4. Paid or volunteer emergency medical services personnel certified or licensed pursuant to KRS Chapter 311A, if the event occurs while personnel are performing job-related duties;

5. A paid or volunteer member of an organized fire department, if the event occurs while the member is performing job-related duties;

6. Paid or volunteer rescue squad personnel affiliated with the Division of Emergency Management of the Department of Military Affairs or a local disaster and emergency services organization pursuant to KRS Chapter 39F, if the event occurs while personnel are performing job-related duties;

7. A probation and parole officer;

8. A transportation officer appointed by a county fiscal court or legislative body of a consolidated local government, urban-county government, or charter government to transport inmates when the county jail or county correctional facility is closed while the transportation officer is performing job-related duties;

9. A public or private elementary or secondary school or school district classified or certified employee, school bus driver, or

other school employee acting in the course and scope of the employee's employment; or  
10. A public or private elementary or secondary school or school district volunteer acting in the course and scope of that person's volunteer service for the school or school district; or

(b) Being a person confined in a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces, or urine, or other bodily fluid to be thrown upon an employee of the facility.

(2) Assault in the third degree is a Class D felony.

**508.160 Disarming a police officer -- Penalty -- Applicability.**

(1) A person is guilty of disarming a peace officer when he intentionally:

(a) Removes a firearm or other deadly weapon from the person of a peace officer when the peace officer is acting within the scope of his official duties; or

(b) Deprives a peace officer of the officer's use of a firearm or deadly weapon when the peace officer is acting within the scope of his official duties.

(2) Disarming a peace officer is a Class D felony.

(3) The provisions of this section shall not apply when:

(a) The defendant does not know or could not reasonably have known that the person disarmed was a peace officer; or

(b) The peace officer was, at the time of the disarming or incident thereto, engaged in felonious conduct.

**520.090 Resisting arrest.**

(1) A person is guilty of resisting arrest when he intentionally prevents or attempts to prevent a peace officer, recognized to be

acting under color of his official authority, from effecting an arrest of the actor or another by:

(a) Using or threatening to use physical force or violence against the peace officer or another; or

(b) Using any other means creating a substantial risk of causing physical injury to the peace officer or another.

(2) Resisting arrest is a Class A misdemeanor.

**520.095 Fleeing or evading police in the first degree.**

(1) A person is guilty of fleeing or evading police in the first degree:

(a) When, while operating a motor vehicle with intent to elude or flee, the person knowingly or wantonly disobeys a direction to stop his or her motor vehicle, given by a person recognized to be a police officer, and at least one (1) of the following conditions exists:

1. The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720;

2. The person is driving under the influence of alcohol or any other substance or combination of substances in violation of KRS 189A.010;

3. The person is driving while his or her driver's license is suspended for violating KRS 189A.010; or

4. By fleeing or eluding, the person is the cause, or creates substantial risk, of serious physical injury or death to any person or property; or

(b) When, as a pedestrian, and with intent to elude or flee, the person knowingly or wantonly disobeys an order to stop, given by a person recognized to be a peace officer, and at least one (1) of the following conditions exists:

1. The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720; or



2. By fleeing or eluding, the person is the cause of, or creates a substantial risk of, serious physical injury or death to any person or property.

(2) Fleeing or evading police in the first degree is a Class D felony.

**520.100 Fleeing or evading police in the second degree.**

(1) A person is guilty of fleeing or evading police in the second degree when:

(a) As a pedestrian, and with intent to elude or flee, the person knowingly or wantonly disobeys a direction to stop, given by a person recognized to be a peace officer who has an articulable reasonable suspicion that a crime has been committed by the person fleeing, and in fleeing or eluding the person is the cause of, or creates a substantial risk of, physical injury to any person; or

(b) While operating a motor vehicle with intent to elude or flee, the person knowingly or wantonly disobeys a recognized direction to stop his vehicle, given by a person recognized to be a peace officer.

(2) No offense is committed under this section when the conduct involved constitutes a failure to comply with a directive of a traffic control officer.

(3) Fleeing or evading police in the second degree is a Class A misdemeanor.

**CONTEMPT OF COURT**

**403.760 Contempt of court**

(1) Violation of the terms or conditions of an order issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order, or an order following hearing, after service of the order on the respondent, or notice of the order to the respondent, shall constitute contempt of court.

(2) Any peace officer having probable cause to believe a violation has occurred of an order issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order or an order following a

hearing, and after service on the respondent or notice to the respondent as provided under KRS 403.735, shall arrest the respondent without a warrant for violation of a protective order pursuant to KRS 500.020, 403.715, and 403.740. Following a hearing the District Court in the county in which the peace officer made the arrest for the violation may punish the violation of a protective order as a violation of a protective order.

(3) Court proceedings for contempt of court, under KRS 403.715 to 403.785, shall be held in the county where the order, whether an emergency protective order or order following hearing, was issued.

(4) Nothing in this section shall preclude the Commonwealth from prosecuting and convicting the respondent of criminal offenses other than violation of a protective order.

(5) Civil proceedings and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive. Once either proceeding has been initiated the other shall not be undertaken regardless of the outcome of the original proceeding.

**432.230 Contempt of court by witness, juror, officer**

Witnesses, jurors and officers of courts, for disobeying a summons of court, or neglecting to execute or make due return of a subpoena or order of court or other judicial officer, may be punished for contempt.

**432.240 No contempt for criticism out of court.**

No court or judge shall proceed by process of contempt or impose a fine against any person who animadverts upon or examines into the proceedings or conduct of such court or judge, by words spoken or writing published, not in the presence of the court or judge in the courthouse during the sitting of the court.

**432.250 Bond for appearance following contempt charge**

(1) Upon a *capias* or other original process against a person charged with a contempt the court awarding it shall direct in what penalty the accused shall give bond, with good surety, for his appearance at the time and place named in the process, which order shall be endorsed on the process. If the bond given is violated, proceedings shall be instituted by the attorney for the Commonwealth to recover the penalty.

(2) If the person arrested by virtue of the process fails to give bond as required, the officer making the arrest shall forthwith remove and lodge him in the jail of the county from which the process issued.

**432.270 No bail permitted for contempt.**

A person committed to prison for contempt shall not be admitted to bail.

**ARREST**

**431.005 Arrest by peace officers -- By private persons.**

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 or KRS 281A.210.

(2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple.

(b) For the purposes of this subsection, the term "family member" has the same meaning as set out in KRS 403.720.

(c) For the purpose of this subsection, the term "member of an unmarried couple" has the same meaning as set out in KRS 403.720.

(3) A peace officer may arrest a person without a warrant when the peace officer has probable cause to believe that the person is a sexual offender who has failed to comply with the Kentucky Sex Offender Registry requirements based upon information received from the Law Information Network of Kentucky.

(4) For purposes of subsections (2) and (3) of this section, a "peace officer" is an officer certified pursuant to KRS 15.380.

(5) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(6) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

(7) If a law enforcement officer has probable cause to believe that a person has violated a restraining order issued under KRS 508.155, then the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

**CHANGES EFFECTIVE 6/8/2011 as indicated below**

**431.015 Citation for misdemeanor -- Failure to appear.**

**(1) (a) KRS 431.005 to the contrary notwithstanding, and except as provided in paragraphs (b) and (c) of this subsection, a** peace officer **shall** [may] issue a citation instead of making an arrest for a misdemeanor committed in his presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

**(b) A peace officer may make an arrest instead of issuing a citation for a misdemeanor committed in his or her presence if the misdemeanor is:**

**1. A violation of KRS Chapter 508, 510, or 527, or KRS 189A.010;**

**2. An offense in which the defendant poses a risk of danger to himself, herself, or another person; or**

**3. An offense in which the defendant refuses to follow the peace officer's reasonable instructions.**

**(c) A peace officer shall make an arrest for violations of protective orders issued pursuant to KRS 403.715 to 403.785.**

(2) A peace officer may issue a citation instead of making an arrest for a violation committed in his presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or 525.070 committed in his presence or a violation of KRS 189A.010, not committed in his presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.